

REMARKS

In the Advisory Action, the Examiner rejected the Rule 131 Declarations and associated Exhibits A-F, refused to enter the previous claim amendments, and maintained the rejection of claims 1-9, 11-15, 17-28, and 31-33. In the attached remarks, the Examiner specifically stated:

The affidavits and associated evidence filed on 3-18-2005 have been entered and considered but do not provide a showing of facts in character and of a weight sufficient as to establish reduction to practice prior to the effective date of the Fuhr or Dhalberg references, or conception of the invention prior to the effective date of those reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. See MPEP 715[R-2] and 37 CFR 1.131(b).

The evidence fails to support a claim of conception of the instant invention prior to the effective date of the references applied to the rejections of the claims because; the photograph that purports to be one of a the (*sic*) wireless dongel (*sic*) has no label that indicates what it is a picture of, nor does the object depicted contain any label; there is nothing associated with the photograph that indicates it is a dongle as found in the claims of the instant application; nothing in the Fee Transaction list provided (*sic*) or in the copies of the correspondence between the firm of Fletcher et al. and the Hewlett Packard / Compaq Computer Corp. unambiguously associates the work product with the instant application; and as stated on page 10 paragraph 1 of the response, the reduction to practice is described as occurring: "...at least as early as 16 August 2000 which does not anticipate the effective dates of the references applied.

Advisory Action mailed on April 8, 2005, page 3.

In view of the Examiner's statements above, the Applicants believe that the Examiner is relying solely on the Exhibits without any consideration of the Rule 131 Declarations. The Applicants stress that the Examiner must consider all of the evidence, including the Rule 131 Declarations and associated Exhibits, rather than attacking particular Exhibits out of context of the associated evidence. See M.P.E.P. (Rev. 2, May 2004) § 715.07. For example, Section 715.07 of the Manual of Patent Examining Procedure states:

However, when reviewing a 37 CFR 1.131 affidavit or declaration, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and "notes." An accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself. *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989).

In view of the forgoing, the Examiner's rejection of the previously filed Rule 131 Declarations and associated Exhibits A-F is clearly improper. For these reasons, the Applicants stress that the Examiner must consider the Rule 131 Declarations and associated Exhibits A-F in their entirety. In addition, Section 715.07 of the Manual of Patent Examining Procedure states:

... averments made in a 37 CFR 1.131 affidavit or declaration do not require corroboration; an applicant may stand on his or her own affidavit or declaration if he or she so elects. *Ex parte Hook*, 102 USPQ 130 (Bd. App. 1953).

Again, based on the forgoing passage, the Applicants stress that the Examiner improperly rejected the Rule 131 Declarations and associated Exhibits A-F based on an incomplete analysis of only the Exhibits without any consideration of the Rule 131 Declarations. The Applicants reiterate that the Rule 131 Declarations and associated Exhibits A-F clearly evidence conception, reduction to practice, and reasonable diligence from conception to the subsequent reduction to practice. As discussed in detail below, in view of the earlier date of invention of the claimed subject matter, the Applicants stress that the Fuhr and Dahlberg et al. references must be removed pursuant to 37 C.F.R. § 1.131.

Upon removal of the Fuhr and Dahlberg et al. references, the Applicants stress that the pending claims are in condition for allowance. Regarding the previous claim objections, the Applicants amended claims 32 and 33 to correct the claim dependencies of these claims. Given that the application is otherwise in condition for allowance, the Applicants respectfully request entry of these claim amendments.

EXAMINER INTERVIEW SUMMARY

On April 26, 2005, the Applicants representative, Tait R. Swanson (Registration No. 48,226), initiated an Examiner Interview to discuss the sufficiency of the Rule 131 Declarations and Associated Exhibits A-F. Specifically, during the Examiner Interview, the Applicants representative cited Section 715.07 of the Manual of Patent Examining Procedure, including the portions cited above, to emphasize that the Examiner must consider the Rule 131 Declarations and associated Exhibits A-F in their entirety and, also, that the Applicants could rely solely on the Rule 131 Declarations without the associated Exhibits A-F.

In addition, in response to the Examiner's statement that "there is nothing associated with the photograph that indicates it is a dongle as found in the claims of the instant application," the Applicants stressed that a correlation is clearly set forth in the Rule 131 Declarations. Advisory Action mailed on April 8, 2005, Page 3. In response to the Examiner's statement that "nothing in the Fee Transaction list provided (*sic*) or in the copies of the correspondence... unambiguously associates the work product with the instant application," the Applicants again stressed that a correlation is clearly set forth in the Rule 131 Declarations. *Id.* Additionally, during the Examiner Interview, the Applicants representative stressed that the correspondence and Fee Transaction list specifically references a "USB wireless antenna dongle." Exhibits C and D. For example, the e-mail of Exhibit C includes the following line: "RE: USB WIRELESS ANTENNA DONGLE." Exhibit C. By further Example, the Detail Fee Transaction File List of Exhibit D includes an entry on July 10, 2000, which describes work performed to "Revise patent application claims for USB wireless Antenna Dangle (*sic*)." Exhibit D. In addition, the Detail Fee Transaction File List includes a gray area at the bottom of the dated entries, which gray area is clearly labeled "USB Wireless antenna Dongle." *Id.*

For these reasons, the Examiner agreed that a clear correlation exists between the various Exhibits and the claimed invention. The Examiner also indicated that he is inclined to remove the Fuhr and Dahlberg et al. references based on the Rule 131 Declarations and associated Exhibits A-F. Accordingly, the Examiner requested a written request for reconsideration of the Rule 131 Declarations and associated Exhibits A-F.

Claim Objections

In the Final Office Action, the Examiner objected to claims 32 and 34. However, as there is not a claim 34 in the present application, Applicants believe the Examiner intended to object to claims 32 and 33. Particularly, the Examiner indicated that it was unclear whether Applicants intended claims 32 and 33 to depend from claim 21 or claim 31. As indicated above, Applicants amended claims 32 and 33 to correct a clerical error and to clearly indicate that these claims depend from claim 31. In view of these amendments, Applicants respectfully request the Examiner withdraw the objection to the claims.

Rejections Under 35 U.S.C. §§ 102 and 103

In the Final Office Action, the Examiner rejected claims 12-15, 19, 21, and 31-33 under 35 U.S.C. § 102(a) as being anticipated by Fuhr. Further, the Examiner rejected claims 1-9 and 11 under 35 U.S.C. § 103(a) as obvious over Fuhr in view of Dahlberg et al. The Examiner also rejected claims 17, 18, 20 and 22-28 under 35 U.S.C. § 103(a) as being unpatentable over Fuhr. Applicants respectfully traverse these rejections. Additionally, in view of the earlier date of invention of the subject matter disclosed and claimed in the present application, Applicants elect to remove the Fuhr and Dahlberg et al. references pursuant to 37 C.F.R. § 1.131.

Under Rule 131, Applicants may overcome a prior art rejection by filing an appropriate declaration that establishes invention of the claimed subject matter by Applicants prior to the effective date of the reference relied upon in the rejection. Prior invention may be shown either by proving actual reduction to practice prior to the effective date of the reference or by proving conception of the invention prior to the effective date of the reference coupled with reasonable diligence from prior to the effective date of the reference to a subsequent reduction to practice.

Accordingly, Applicants submit the enclosed Rule 131 Declarations of inventors Ligy Kurian, James A. Jensen, and Paul L. Drew pursuant to Rule 131 ("the Rule 131 declarations"), signed by the inventors of record, to demonstrate that the invention disclosed and claimed in the present application was conceived prior to the effective date of the Fuhr

and Dahlberg et al. references coupled with reasonable diligence from prior to the effective date of these references to the subsequent reduction to practice. Further, Applicants also submit the enclosed Rule 131 Declaration of Tait R. Swanson, Applicants' legal representative, as further evidence of reasonable diligence in reducing the claimed subject matter to practice.

Although Applicants submit that the cited references most likely have later effective dates, the effective date of the Fuhr reference is no earlier than July 1, 2000 and the effective date of the Dahlberg et al. reference is no earlier than June 1, 2000. In paragraph 3 of the attached Rule 131 Declarations executed by the inventors, the inventors declare that the subject matter disclosed and claimed in the above-referenced application was conceived at least as early as May 4, 2000, which is clearly prior to the effective dates of both the Fuhr and Dahlberg et al. references. Applicants further submit that Exhibit A, along with the corresponding Rule 131 Declarations, is sufficient to demonstrate conception of the claimed subject matter at least as early as May 4, 2000. The drawing of Exhibit A illustrates a wireless communication system as set forth in the claims of the above-referenced application. The illustrated features clearly demonstrate conception of the features set forth in the instant claims. Moreover, the drawing of Exhibit A is dated May 4, 2000.

As indicated by paragraph 4 of the attached Rule 131 Declarations executed by the inventors, the inventors declare that the invention disclosed and claimed in the present application was reduced to practice at least as early as August 16, 2000, the filing date of the above-referenced application (i.e., constructive reduction to practice). Applicants further submit that the filing receipt for the above-identified application, enclosed herewith as Exhibit B, along with the corresponding Rule 131 Declarations, is sufficient to demonstrate reduction to practice of the claimed subject matter no later than August 16, 2000.

Additionally, as indicated by paragraph 5 of the inventors' attached Rule 131 Declarations, the inventors declare that conception of the invention at least as early as May 4, 2000, was coupled with due diligence until the reduction to practice at least as early as August 16, 2000. *See* Rule 131 Declarations of Inventors, Paragraph 5; Exhibits C-F. Applicants also submit the Rule 131 Declaration of Tait R. Swanson as further evidence of reasonable diligence

in reducing the claimed subject matter to practice. Applicants further submit that Exhibits C-F, along with the corresponding Rule 131 Declarations, are sufficient to demonstrate reasonable diligence prior to June 1, 2000 (the earliest possible effective date of the Dahlberg et al. reference), and prior to July 1, 2000 (the earliest possible effective date of the Fuhr reference), until the reduction to practice of the claimed subject matter no later than August 16, 2000. *See id.* Specifically, an electronic communication to the inventors from the Assignee dated April 28, 2000, indicates that counsel had been obtained for preparation of the above-identified patent application. A copy of this communication is provided as Exhibit C. Further, Exhibit D shows billing records of Applicants' representatives who acted with reasonable diligence in the preparation of the present application. As indicated by dated entries from May through August of 2000 in Exhibit D, the Applicants' representatives were diligently preparing the above-referenced patent application to constructively reduce the claimed invention to practice during the time period beginning immediately before the earliest possible effective date of the Fuhr and Dahlberg et al. references and continuing until the filing of the present application. *See* Exhibit D. Correspondence between Applicants and Applicants' representatives are also provided herewith as Exhibits E and F. This correspondence further evidences the reasonable diligence of Applicants and their representatives in preparing the above-identified application filed on August 16, 2000. *See* Exhibits E and F. Accordingly, in view of the earlier conception and reasonable diligence from immediately before the effective dates of the cited references up until the reduction to practice, Applicants respectfully request that the Examiner remove the Fuhr and Dahlberg et al. references from consideration and withdraw all outstanding rejections based on these cited references.

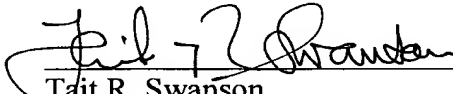
Upon removal of the Fuhr and Dahlberg et al. references, Applicants stress that the pending claims 1-9, 11-15, 17-28, and 31-33 should be in condition for allowance.

Conclusion

In view of the amendments and remarks set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: May 2, 2005


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